



# REMC 1

Mike Richardson, Director

mike@remc1.org www.remc1.org

## REMC1 Internet Service Contract

**Name of Customer (District):** Hancock Public School District  
**Agreement Period:** July 1, 2016-June 30, 2018  
**Annual Amount (pre USF):** \$23,328  
**Contract Award Date:**  
**Contract Service Start Date:** July 1, 2016  
**Contract Service End Date:** June 30, 2018  
**Optional voluntary contract extensions:** Three 2 year extensions (total 6 years)

This SERVICES AGREEMENT (collectively with each Service Order Form, as defined below, the "Agreement"), is made by and between Regional Educational Media Center 1 ("REMC1") and the above referenced school district ("DISTRICT").

- REMC1 will provide annual invoices that are due within 30 days of the billing date. REMC1 will invoice SLD directly for the USF-funded portion of fees. In the event that USAC does not pay the discounted portion, the DISTRICT will be billed the remainder. REMC1 will work with the DISTRICT to ensure all applicable forms have been filed and provide any additional information USAC requires to process the erate payments, but ultimately the DISTRICT is responsible for the entire contract amount.
- These connections are for educational use only and are subject to the limitations, terms and conditions of REMC1's agreement for the connection and any applicable software licenses and Internet service agreements.
- REMC1 will use reasonable effort to maintain Internet connectivity at all times, however, cannot guarantee this connection. REMC1 is not responsible for any failure or inadequacies of the connection or any damages resulting there from.
- The DISTRICT is responsible for regulating the appropriate use of the connection and for any damages resulting from the inappropriate use thereof. Inappropriate uses include, without limitation, any use that is illegal or that violates the security of the network, other parties connected to the network or the lease line provider; sending unsolicited e-mail messages; the unauthorized use of another site's mail server to relay mail; and excessive cross-posting or multiple-posting of messages.

### 1. Background

REMC1 is a non-profit service agency of the Copper Country Intermediate School District (CCISD), and the Gogebic-Ontonagon Intermediate School District (GOISD).

### 2. Services Provided

- (a) General. REMC1 will provide to DISTRICT the Internet access services at the quoted bandwidth and costs, optional fee-services, and other mutually agreed-upon services (collectively, the "Services") set forth below as subject to the terms and provisions of this Agreement.
- (b) Network Access. REMC1 will provide to DISTRICT Internet access and other services as defined.
- (c) Installation. REMC1 will provide the labor, equipment, and other materials necessary to provide network access. This includes the equipment at both ends of the connection, the circuit used, and related materials, parts and labor. DISTRICT shall pay a service charge for the equipment, the cost of the circuit and telephone company installation fees (if applicable), associated with the installation. All equipment supplied by REMC1 will remain the property of REMC1. DISTRICT shall be responsible for all internal networking, host computers to be attached to the network, and any associated software. DISTRICT shall also be responsible for the cost of any software upgrades to DISTRICT owned equipment, which may be specified by REMC1, which is required in order to effectuate the network attachment. DISTRICT may have the option to

*Providing service to your ISD and their local constituent schools*

Copper Country Intermediate School District  
Gogebic-Ontonagon Intermediate School District

Phone (906) 482-4520  
811 Hecla Street Hancock, MI 49930

select an alternate installation option for a reduced fee. If this option is selected, REMC1 will configure all equipment and ship it to the DISTRICT. DISTRICT will then be responsible for installation of equipment at their location(s).

(d) Service and Support. Payment of the annual Internet fee shall entitle DISTRICT to participate in the service and support offered by REMC1. This service and support will include software and firmware upgrades required to maintain compatibility with the equipment and software used in the network backbone. It does not include optional equipment or software upgrades offered by REMC1 which are intended to add new features or provide increased performance. Those upgrades will be provided at DISTRICT's expense upon request and pursuant to a separate written Service Agreement. It also does not include the replacement of equipment previously installed by REMC1 at DISTRICT's site that is no longer supported by the manufacturer or which has reached the end of its useful life. If requested to support a service or feature upgrade, that equipment will be replaced by REMC1, but at DISTRICT's expense.

(e) Maintenance. REMC1 is responsible for the operation and maintenance of its backbone and server facilities. DISTRICT is responsible for the operation and maintenance of its local area networks, computers and other equipment. DISTRICT is also responsible for the cost of the maintenance on the supplied circuit at DISTRICT's site, but agrees that all maintenance for circuits and REMC1-owned equipment will be performed by REMC1. DISTRICT is responsible for providing and maintaining an acceptable environment for all REMC1-owned equipment located at the DISTRICT premises. Should REMC1 owned-equipment be damaged as a result of the DISTRICT's abuse, neglect, or failure to provide an acceptable environment or as a result of environmental damage such as fire, flood or lightning strike, DISTRICT is responsible for paying

(i) the cost of all repair services and travel expenses provided at DISTRICT's site at REMC1's then-applicable hourly maintenance rate, plus mileage, and

(ii) the cost of all parts and materials. Maintenance and repair services are available from REMC1 between 7:30 a.m. and 5:00 p.m., Monday through Friday, except holidays. Service may be provided at other mutually agreed upon times, if arranged in advance.

### **3. Payment**

DISTRICT shall pay REMC1 for Services set forth herein; any additional Services as provided in the applicable Service Agreement; and applicable maintenance services at the then-applicable rates. Without limiting the foregoing, DISTRICT shall pay all one-time set-up and installation charges, any one-time or recurring telecommunications service charges (regardless of whether such costs are passed through by REMC1 or billed separately by the telecommunications provider), related administrative fees charged by REMC1, and all sales and use taxes, as well as duties or levies arising in connection with the Services. The annual DISTRICT fee is billed in advance on an annual basis. All other amounts will be billed as the service or charge is incurred. Some qualifying Affiliates may be granted extended payment terms for one-time set-up and installation charges with addition of an appropriate administrative fee. Payment is due within (30) days from the date appearing on the invoice. DISTRICT will be charged a 1.5% late charge on the first day of each month on all invoices remaining unpaid (45) days after the date appearing on the invoice. These payment terms do not apply to amounts paid to REMC1 through the USF program.

### **4. Term and Termination**

(a) Term. The term of this Agreement begins on the date noted above, and terminates on the above noted date.

(b) Renewals. The contract may be voluntarily extended additional years by mutual agreement by both parties, at pricing, bandwidth and options to be negotiated in good faith at comparable discounts to this current contract.

Renewals will be negotiated and signed at least (90) days prior to the end of the current term (whether it's the initial term or a renewal term).

(c) Early Termination. If DISTRICT terminates this Agreement for any reason other than REMC1's breach of its responsibilities under this Agreement before the end of the term, or if REMC1 terminates this Agreement because of a violation by DISTRICT of any term or provision of this Agreement including, but not limited to, DISTRICT's failure to make any payment when due, then DISTRICT shall be responsible for and shall pay

(i) all telecommunications service charges applicable through the date service is actually terminated, regardless of the effective date of termination of the Agreement, and any related administrative fees charged by REMC1,

(ii) any additional early termination penalties or charges assessed by the telecommunications carrier,

(iii) the balance of any remaining fiber access fees or amortized install charges,

(iv) all costs associated with disconnecting DISTRICT's service and removing any equipment from DISTRICT's site (charged at the then-applicable rates for maintenance),

(v) any outstanding amounts previously incurred for maintenance,

(vi) if DISTRICT previously received a discount as a result of agreeing to a term longer than one (1) year, an early termination penalty equal to the total amount of the discount, as calculated without any reduction or proration to reflect the point during the term at which the termination occurs, and

(vii) if DISTRICT previously received extended payment terms for one-time set-up and installation fees, the balance remaining plus any assessed administrative charge are due and payable upon termination. One-time installation charges are not refundable. In the event DISTRICT requests REMC1 to continue providing any portion of the Services beyond the

requested termination date, DISTRICT agrees to pay REMC1 for those Services at the then-applicable rates in accordance with the terms of payment provided above. The above termination penalties do not apply to service moves or upgrades.

(d) Termination. Upon termination of dedicated service with REMC1, whether such termination occurs at the end of the initial term or any subsequent terms, or as an early termination during an agreement period, DISTRICT agrees that all IP addresses assigned from REMC1's CIDR block shall be promptly returned. In addition, DISTRICT shall be responsible for transitioning responsibility of primary and/or secondary DNS to their own DNS server, or that of its new carrier.

#### **5. Limited Warranty**

REMC1 will supply, at no charge, new or rebuilt replacements for defective equipment or parts for the initial term of this Agreement. This Limited Warranty does not cover damages due to accident, misuse, abuse or negligence. REPAIR OR REPLACEMENT AS PROVIDED UNDER THIS LIMITED WARRANTY IS THE EXCLUSIVE REMEDY OF AFFILIATE. REMC1 SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTY. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS LIMITED TO THE DURATION OF THIS LIMITED WARRANTY.

#### **6. Rights and obligations of DISTRICT**

(a) DISTRICT is Responsible to Its Authorized Users. DISTRICT is solely responsible for communicating with its own authorized users, and for handling all complaints and trouble reports made by its authorized users, with respect to the Services provided hereunder.

(b) Acceptable Use Restrictions. Merit's Acceptable Use Policy ("AUP") applies to the use of all Services provided by REMC1, including any unsupervised anonymous network access offered by DISTRICT. By accepting Services from REMC1, DISTRICT agrees to comply with the AUP as defined below (see section titled "Merit Acceptable Use Policy") and any changes made from time to time thereto. DISTRICT also agrees to be responsible for the compliance by its users with the AUP.

#### **7. Rights and Obligations of REMC1**

REMC1 shall be responsible only for the operation and maintenance of the Services. DISTRICT shall be responsible for maintaining and managing its own network that interfaces with the Services. REMC1 shall not be responsible for cabling that connects DISTRICT-owned equipment to REMC1 equipment or the Services. Any interruption in the Services that is caused by the malfunction or interruption of any physical telecommunications media or facility (including, but not limited to cables and fiber optic lines) or by any malfunction or manufacturer's defects of equipment either provided by REMC1 to DISTRICT or separately purchased by DISTRICT will not be deemed a breach of REMC1's obligations under this Agreement.

#### **8. Indemnification**

DISTRICT will indemnify, save harmless and defend REMC1 as well as their respective employees, officers, directors and agents (collectively "Indemnified Parties") from and against any claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative) and expenses (including, but not limited to reasonable attorney's fees incurred with or without suit, in arbitration or mediation, on appeal or in a bankruptcy or similar proceeding) (collectively "Claims") threatened, asserted, or filed by a third party against any of the Indemnified Parties to the extent that such third party Claims arise out of or relate to (i) the breach or alleged breach of this Agreement by DISTRICT; (ii) any negligent or tortious act or omission to act by DISTRICT; or (iii) any claim that the data content delivered by DISTRICT via the Services provided by REMC1 under this Agreement constitutes an infringement of any confidential information, trade secret, patent, copyright, trademark, trade name or other legal right of any third party.

#### **9. Limitation of Liability**

Except for the Limited Warranty above, the equipment and Services provided by REMC1 are provided on an "as is" and "as available" basis. REMC1 does not warrant that the Services will be uninterrupted or free of harmful components. REMC1 makes no express warranties and waives all implied warranties. REMC1 and its employees are not liable for any costs or damages arising directly or indirectly from DISTRICT's use of the Services or the Internet including any direct, indirect, incidental, exemplary, multiple, special, punitive or consequential damages. DISTRICT assumes full responsibility and risk for the use of the Services and the Internet, and is solely responsible for evaluating the accuracy, completeness, and usefulness of all services, products and other information. If DISTRICT is dissatisfied with the Service(s) or with any terms, conditions, rules, policies, guidelines or practices of Provider in operating the Services(s), DISTRICT's sole and exclusive remedy is to terminate this Agreement in accordance with Section 4, above, and discontinue using the Service(s). REMC1's cumulative liability to DISTRICT or any third party for any and all claims relating to the use of the equipment and Services provided by REMC1 shall in no event exceed the amount of the annual DISTRICT fees paid by DISTRICT to REMC1 during the twelve (12) month period ending on the date of the event giving rise to the claim. REMC1 shall not be liable for failure or delay in performing its obligations hereunder if such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike

or other labor disturbance, interruption of or delay in transportation, or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the Services.

#### **10. Data Content**

REMC1 is not liable for the content of any data transferred either to or from DISTRICT via the Services provided by REMC1, nor for any loss or damage, whether personal, material, or financial, suffered by DISTRICT as a direct or indirect consequence of the Services provided by REMC1.

#### **11. Miscellaneous**

(a) Governing Law; Jurisdiction. The validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of Michigan.

(b) Entire Agreement. This Agreement, and the Service Agreements entered into by the Parties from time-to-time, is the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous agreement. This Agreement may not be amended except upon the written consent of the parties. No failure to exercise and no delay in exercising any right, remedy, or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, or power provided herein or by law or in equity. The waiver by any party of the time for performance of any act or condition hereunder shall not constitute a waiver of the act or condition itself.

(c) Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, and assigns. DISTRICT may not assign this Agreement without the prior written consent of REMC1.

(d) Headings; Severability. Headings used in this Agreement are for reference purposes only and shall not constitute a part hereof or affect the meaning or interpretation of this Agreement. If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

(e) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

#### **12. E-rate Program**

In the event E-Rate Program Funding is not awarded or received by reason of Breach of this Agreement or due to negligence on the part of REMC1 (by way of example and not limitation, such negligence would include not filing necessary forms in accordance with specified timelines in order to remain an active eligible service provider under the E-Rate program), then DISTRICT will only be responsible for payment of that portion of the recurring service fee which would not have been reimbursed had such negligence not occurred. In the event that such E-Rate Program Funding is not awarded or received by reason of Breach of this Agreement or negligence of DISTRICT, then REMC1 may enforce this Agreement, against DISTRICT in the total amount of the Recurring Service Fee (i.e., including premised E-Rate Funding) and otherwise in accordance with the terms of Agreement. In the event that such E-Rate Program Funding is not awarded for that year for any other reason, then DISTRICT shall use its best efforts to obtain substitute funding. If DISTRICT is not able to obtain substitute funding, despite its best efforts, within forty-five (45) days, then either party, upon written notice, may request renegotiation of the Agreement. A senior executive of DISTRICT will give REMC1 written notice with the result that DISTRICT will be unable to meet its commitment under this agreement and may provide an alternative proposal to satisfy the concerns of both parties and comply with all applicable legal regulatory requirements. By way of example and not limitation, such alternative proposals may include changes in rates, early termination of service, the conversion of one service to another, changes to the term of the agreement and other provisions.

#### **13. District Closures**

DISTRICT will give REMC1 written notice if any of its constituent districts vacate their premises due to district consolidation or district closure during the course of this agreement. DISTRICT will ascertain impact to Internet usage and bandwidth requirements. If necessary and if feasible, REMC1 and DISTRICT will use cooperative good faith efforts to develop a mutually agreeable alternative for addressing the services provided under this contract.

#### **14. Facsimile**

A facsimile of a duly executed Agreement and Service Order signed by both authorized parties shall be considered evidence of a valid order and Vendor may rely on such facsimile copy of the Agreement and Service Order as if it were the original.

#### **15. Additional Services**

Additional services include the following:

- a. firewall services (with or without NAT)
- b. bandwidth allocation (per district allocation)
- c. packet shaping  
(application level prioritization, per district)

- d. antivirus (at the network edge and/or workstation)
- e. antispyware (at the network edge and/or workstation)
- f. content filtering and proxy avoidance  
(per district access and controls)
- g. transparent caching  
(at the network edge and/or in the network)
- h. antispam (at the network edge)

REMC1:

Signed By:

Michael Richardson

Printed Name:

Michael Richardson

Title:

Director REMC1

**DISTRICT:**

Signed By:

Monica M. Healy

Printed Name:

Monica M. Healy

Title:

Superintendent

**Merit Acceptable Use Policy (included for reference only)**  
**May 30, 2006**

This Policy is a guide to the acceptable use of Merit Network facilities and services (Services). Any Member or Affiliate organization or individual connected to Merit's network in order to use it directly, or to connect to any other network(s), must comply with this policy and the stated purposes and Acceptable Use policies of any other network(s) or host(s) used.

Each Member and Affiliate organization is responsible for the activity of its users (including guests and other temporary users) and for ensuring that its users are familiar with this policy or an equivalent policy. In addition, each Member and Affiliate is encouraged to maintain and enforce its own Acceptable Use policies. The provisions of this policy govern all use of the Services, including any unsupervised anonymous network access offered by Members or Affiliates.

The following guidelines will be applied to determine whether or not a particular use of the Services is appropriate:

1. Users must respect the privacy of others. Users shall not intentionally seek information on, or represent themselves as, another user unless explicitly authorized to do so by that user. Nor shall Users obtain copies of, or modify files, other data, or passwords belonging to others.
2. Users must respect the legal protection applied to programs, data, photographs, music, written documents and other material as provided by copyright, trademark, patent, licensure and other proprietary rights mechanisms.
3. Users must respect the integrity of other public or private computing and network systems. Users shall not intentionally develop or use programs that harass other users or infiltrate any other computer, computing system or network and/or damage or alter the software components or file systems of a computer, computing system or network.
4. Use should be consistent with guiding ethical statements and accepted community standards. Use of the Services for malicious, fraudulent, or misrepresentative purposes is not acceptable.
5. The Services may not be used in ways that violate applicable laws or regulations.
6. The Services may not be used in a manner that precludes or significantly hampers network access by others. Nor may the Services be used in a manner that significantly impairs access to other networks connected to Merit.
7. Connections which create routing patterns that are inconsistent with the effective and shared use of the Services may not be established.
8. Unsolicited advertising is not acceptable. Advertising is permitted on some Web pages, mailing lists, news groups and similar environments if advertising is explicitly allowed in that environment.
9. Repeated, unsolicited and/or unwanted communication of an intrusive nature is strictly prohibited. Continuing to send e-mail messages or other communications to an individual or organization after being asked to stop is not acceptable.

The intent of this policy is to identify certain types of uses that are not appropriate, but this policy does not necessarily enumerate all possible inappropriate uses. Using the guidelines given above, Merit may at any time make a determination that a particular use is not appropriate.

Merit will not monitor or judge the content of information transmitted via the Services, but will investigate complaints of possible inappropriate use. In the course of investigating complaints, Merit staff will safeguard the privacy of all parties and will themselves follow the guidelines given in this policy and in Merit's Privacy Policy. Merit will only release sensitive, confidential or personally identifiable information to third parties when required by law, or when in Merit's judgment, release is required to prevent serious injury or harm that could result from violation of this policy.

#### Remedial Action

When Merit learns of possible inappropriate use, Merit staff will notify the Member or Affiliate responsible, who must take immediate remedial action and inform Merit of its action. Merit will assist the Member or Affiliate in identifying the nature and source of the inappropriate use and in implementing remedial action if requested. Provided the Member or Affiliate implements remedial action promptly, Merit will take no further action. If Merit is unable to contact the Member or Affiliate, or if the Member or Affiliate is unable to implement remedial action, Merit reserves the right to pursue remedial action independently. Wherever possible, Merit will pursue remedial action with the least impact to the overall service for the Member or Affiliate.

Should the situation be considered an emergency, and Merit deems it necessary to prevent further inappropriate activity, Merit may temporarily disconnect a Member or Affiliate from the network. An emergency is defined as: "Serious security incidents that require immediate attention to prevent harm to an individual, to protect information from loss or damage that would be difficult or impossible to correct or to deal with serious on-going denial of service attacks."

If temporary disconnection is deemed necessary by Merit staff, every effort will be made to inform the Member or Affiliate prior to disconnection, and every effort will be made to re-establish the connection as soon as it is mutually deemed safe.

Any determination of inappropriate use serious enough to require disconnection shall be promptly communicated to every member of the Merit Board of Directors through an established means of publication.